

LEGISLATIVE BUSINESS.

THE TRAVANCORE TRADE DISPUTES BILL (*contd.*)Clause 16—(*contd.*)

MR. KAYALAM PARAMESVARAN PILLAI (*Law Member to Government*): Sir, I was at the amendment to clause 16 of the bill last evening. I consider it a good fortune that the debate was not concluded yesterday and that therefore the Honourable members had the opportunity to sleep over the discussion that had already taken place.

MR. K. G. KUNJUKRISHNA PILLAI (*Neyyattinkara cum Trivandrum*): May I ask what will be the effect of deleting the semi-colon after sub-clause (a) ?

MR. KAYALAM PARAMESVARAN PILLAI: I shall explain it presently, Sir.

I was saying that the Honourable members had the good fortune of sleeping over the debate yesterday and getting up in the morning with a clear and dispassionate mind on the subject matter. Let me therefore briefly re-capitulate what exactly is the effect and purpose of his clause.

MR. A. THANU PILLAI (*Trivandrum Town*): I cannot hear what the Law Member says. He was referring to the morning.

PRESIDENT: He has been discussing the question of sleeping and keeping awake.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, it was stated in opposition to the clause that the effect of the clause was to discourage sympathetic strikes, to take away what is called a fundamental right of labourers and to suck the life blood of labourers. All this is entirely out of place so far as this clause is concerned. The effect of this clause is to prevent the infliction of a severe and prolonged hardship on the community in general and also to prevent a compulsion of the Government. Strikes may be of two different classes, either within the industry or beyond the industry. Strikes beyond the industry may be called sympathetic strikes and within the industry ordinary strikes. If it is confined say to one factory alone it may be but an individual strike. This is in regard to the nature of the strike. In regard to the object or purpose of the strike, it may be calculated to inflict severe, prolonged and general hardship on the community and also thereby to compel Government to take a particular course of action. What this clause does is not to lay down that sympathetic strikes shall not be undertaken; it only says that the object of the strike shall be confined within the industry; if one takes part in a sympathetic strike which is not connected with one's own industry, he should not do it in such a manner as to cause severe hardship on the community and to compel Government. Yesterday Mr. Velayudhan referred to a supposed strike in Mr. Karunakaran's factory and said that if this clause is passed the

labourers in Mr. Janardanan Pillai's factory will not be able to take part in it. I may tell him that if Mr. Velayudhan has a factory of his own they will also be able to take part in the strike. For, sub-clause (a) says that the dispute must be within the trade or industry in which the strikers or employers locking out are engaged. The trade dispute has a very wide and comprehensive meaning that cannot be misconstrued. Sub-clause 3 (a) says that a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen or between workmen and workmen in that trade or industry which is connected with the employment or non-employment or the terms of the employment or the conditions of labour of persons in that trade or industry.

MR. V. K. VELAYUDHAN (*Ambalapuzha cum Shertala*): Does not sub-clause 3 (b) limit the definition of the term "trade or industry"?

MR. KAYALAM PARAMESVARAN PILLAI: It does not. On the other hand, it only enlarges it.

I was just now saying that sub-clause 3 (a) refers to the identity of a trade or industry and it does not matter who the employer is, provided the trade or industry is the same. Sub-clause (b) enlarges it still further. Under that sub-clause, it is not necessary that the trade or industry should be the same at all. Clause (a) says that if there is a unity of industry, it shall be a strike within the industry. Clause (b) says that even if there be a *diversity* of the industry but there is a unity of employer, then the trade or industry is the same. That is to say, if the same employer may have a coir factory, a boat service and a motor service, strikes in those various industries may be deemed to be within the same industry. So that if A has a diversity of industries, a strike in all the industries together is permissible even if it is intended to compel Government or to cause hardship on the community. It cannot, therefore, be said that the object of the clause is to put down sympathetic strikes. Again, the strike may be allowed even if it is beyond the trade or industry provided no prolonged or severe hardship is caused on the community or the Government is not sought to be compelled.

Mr. K. G. Kvnjukrishna Pillai said that because there is a semi-colon after clause (a), it stands by itself. That is not intended to be so. The language here is borrowed from the Indian Act and is practically the same as the language in the English Act. I can tell him that unless all these conditions *co-exist*, the clause will not apply. My honorable friend Mr. E. Subramonia Aiyar, with his wide experience of legal interpretation, has already assured the House about that.

As I said already there is no reason to apprehend that any reasonable strikes will be put down by this clause.

In regard to compelling Government, clause (4) says that a strike or lock-out shall not be deemed to be calculated to compel Government unless such compulsion might reasonably be expected as a consequence

[Mr. Kayalam Paramesvaran Pillai.]

thereof. Thus it will be seen that no strike will be considered illegal unless all these conditions co-exist.

Sir, Travancore is not the only country that has embarked on this kind of legislation. There is a similar law in India and in England. In all these places such strikes as in this clause are made illegal. The provision is every where in the interests of the general public including the labour public. Labour strikes should be actuated generally at any rate by economic causes and not by ulterior causes. However, even if ulterior causes be the reason of a strike, the strike may be legal provided it does not seek to cause hardship to the community etc.

That apart, a strike can succeed, as I understand it, only by attracting the public sympathy, say, even by extorting the public sympathy. No strike should therefore be indulged in such a way as to alienate public sympathy altogether and it will be alienating public sympathy if you try by means of a strike to inflict severe, general and prolonged hardship to the community and thereby to compel the Government to take a course of action. In the interest of labour, no less than in the interests of the general public, this provision is absolutely necessary. As I said yesterday, this if at all should be considered as a character of the rights of the labourer to strike. I request the honourable members to take a dispassionate view of the matter when they vote on the amendment.

PRESIDENT : The question is that clause 16 be deleted.

The amendment was put to vote and lost.

MR. JOSEPH VITHAYATHIL (*Kunmatnad cum Parur*) : Sir, I demand a poll.

A poll was taken with the following results :

AYES—24.

1 Mr. Kottalil P. Abraham	12 Mr. M. G. Mathew
2 „ Kannara Gopala Panickar	13 „ P. Nanoo
3 „ N. V. Joseph	14 „ K. Narayanaperumal Nadar
4 „ Joseph Vithayathil	15 „ S. Narayana Pillai
5 „ K. Kesavan	16 „ K. R. Narayanan
6 „ K. P. Kochukora Tharakan	17 „ S. Nilakanta Pillai
7 „ P. K. Kumaran	18 „ E. John Philipose
8 „ Thariathu Kunjithommen	19 „ P. J. Sebastian
9 Sahib Bahadur P. K. Kunju	20 „ K. T. Thomas
10 Mr. P. Kunjukrishnan	21 „ E. P. Varghese
11 „ P. V. Mathai Chemparathy	22 „ V. K. Velayudhan
	23 „ P. Vivekanandam
	24 Srimati C. O. Ponnammam

NOES—35.

1 Mr. P. C. Adichan	20 Mr. R. Narayanan Namboori
2 Sahib Bahadur V. Chandamiah	21 „ Kayalam Paramesvaran Pillai
3 Mr. S. Chattanatha Karayalar	22 „ J. E. A. Pereira
4 „ M. L. D'cruz	23 „ Codiveetil C. Raman kunju
5 Srimati K. Devaki Antharjanam	24 „ M. Ramiah Pillai.
6 Mr. K. M. Eapen	25 Rao Bahadur A. Rengaswami Aiyar
7 „ E. E. Pandarathil	26 Mr. P. Sivarama Pillai
8 „ D. Francis	27 „ M. Sivathanu Pillai
9 „ K. George	28 „ E. Subramonia Aiyar
10 „ M. L. Janardana Pillai	29 „ A. Thanu Pillai
11 „ N. John Joseph	30 „ J. W. Tolson
12 „ K. C. Karunakaran	31 „ G. B. E. Truscott
13 „ T. T. Kesavan Sastri	32 „ Puliyoer T. P. Velayudhan Pillai
14 „ S. Krishna Aiyar	33 „ K. Paramesvara Panickar
15 „ C. Kumara Das	34 „ James Simpson
16 Rao Bahadur Rajyasevanirata Dr. N. Kunjan Pillai	35 „ C. V. Chandrasekharan
17 Mr. K. G. Kunjukrishna Pillai	
18 „ C. O. Madhavan	
19 Sahib Bahadur M. K. Mackar Pillai	

NEUTRALS—5.

1 Mr. T. C. Kesava Pillai	3 Mr. N. Narayana Kurup
2 „ Kaviyoer K. K. Kochukunju	4 „ G. P. Nilakanta Pillai
	5 „ T. M. Varughese

The amendment was declared lost.

MR. JOSEPH VITHAYATHIL : Sir, I beg to move the following amendment :

“In clause 16 (1) (a), instead of the words “has any object other than” have the words “has not as its object” and delete the words “within the trade or industry in which the strikers or employers locking-out are engaged.”

The object of the first part of the amendment is this:—According to the clause as it stands, a strike or lock-out shall be illegal which has any object other than the furtherance of a trade dispute. If my amendment is allowed the clause will read thus :

“A strike or lock-out shall be illegal which has not as its object the furtherance of a trade dispute.”

The difference is this. A strike might have more than one object. Along with the object of furthering the interests of the particular trade it may have also the object of furthering the interests of another trade. In such a case, should the strike be regarded as illegal? We cannot say that the clause proceeds on the basis that there can be only one object for a strike. It is not necessarily so. According to the clause as it is even if the strike has as its object the furtherance of the interest of the particular trade, it will be considered illegal if it has got some other object also. The difficulty is this. According to the Honourable Law

[Mr. Joseph Vithayathil.]

Member, an "individual strike" is justifiable. A "sympathetic strike" in itself is justifiable. A strike that might create hardship is also in itself justifiable. But the sympathetic strike with the addition of hardship becomes illegal. The position is this:— "Individual strike" in itself is not illegal. "Sympathetic strike" in itself is not illegal. A strike which creates hardships is not in itself illegal. But a combination of some of these factors makes a strike illegal. Suppose the strikers have two objects in view. Besides the object of furthering a dispute in their own industry they may desire to help the labourers in another industry whose success may ultimately benefit them also. If they have that object also, why should they be penalised?

The Law member was saying that many safeguards are given in the Section to protect the interests of the labourers. But the difficulty is apparent when we go deep into the matter. Although *prima facie* the section may look alright, according to section 17 we are not concerned with the result of a strike. The persons who actually strike work are not punished, as will be seen from section 17. Suppose a labour leader were to advise a labour union to go on strike and the authorities concerned want to punish him. If as a matter of fact he instigated these people to go on strike and if the strike does not take place we are not in a position to know what the actual result of that strike would have been. If it is possible for the Magistrate to hold that the object of the strike was not only to safeguard the interest of the union but also the interest of some other trade or industry and if it is possible for him to say that the strike would have caused the results mentioned in the section then the labour leader can be punished under Section 17. As I said yesterday is it after all very easy to read the mind of man? Everything would depend on the imagination of the Magistrate who tries the case. He can say that his object was not only to further the interests of his own trade but his idea was also to support another industry or trade. He can also say that of the strike actually took place it would have caused severe hardship on the community. We are not in a position to know what the actual situation is, because a strike need not take place for the instigator being punished. Therefore the whole thing is left to the imagination of the court. If the court can say that if the strike had actually taken place it would have caused hardship, then the individual is punished, provided the Magistrate is also able to say that the object of the strike was besides being the furtherance of the particular industry the furtherance of some other industry also. Then the man comes within the purview of this Section and he is punished. It is a very serious matter for consideration as one honourable member submitted the other day, whether this clause should find a place in the Statute Book. No man's position is safe. Is it possible to prove that the strike would not have caused hardship? When we come to the practical application of the Section we will find the importance of the matter. My friend, the Law Member says that this section is the charter of the right of the labourer to strike. But

we know where we are. Apparently the whole Bill might appear to be intended to provide means for settling trade disputes. But when we go deep into the matter it will be seen that the Bill is really intended to stifle the development of trade union movements. Clause 15 in fact makes strike in public utility services impossible. Clauses 16, 17 and 18 really prevent strikes even in non-public utility services. No labour leader can safely advise a union to go on strike. He takes a very great risk. He does not know where he stands. The safeguards and restrictions in the section are of no avail to him as a strike need not actually take place.

Therefore I suggest that at least in this particular respect the clause may be amended. The clause as it stands, I submit, makes miserable legislation. It is very vague. With this clause on the Statute Book no labour leader can and will take the risk of advising a union to go on strike, even if it is necessary to do so to safeguard its interest. I hope that the Honourable Law Member will agree to this proposal.

MR. P. K. KUNJU (*Quilon cum Kottarakara*): I second it.

MR. V. K. VELAYUDHAN: I support the amendment. The Law Member was prepared to concede the right of sympathetic strike by the labourers. If that right is sought to be secured to the labourers I hope the Law Member will agree to the latter portion of the amendment.

I shall explain this by an illustration. The workers in the factory of Mr. M. L. Janardhanan Pillai goes on strike. The workers in the factory of Mr. K. C. Karunakaran can join in the strike only if the workers in that factory can be taken to be engaged in the same trade or industry. The word same 'trade or industry' is defined in sub-clause 3 (b). Under sub-clause 3 (b), the labourers in the factory of Mr. K. C. Karunakaran can be said to be engaged in the same 'trade or industry.'

MR. M. SIVATHANU PILLAI (*Tovala cum Agasteesvaram*): May I know whether the member has got any coir industry of his own?

PRESIDENT: It does not arise from his speech.

MR. M. SIVATHANU PILLAI: They all come from Alleppey side and we from South Travancore.

MR. V. K. VELAYUDHAN: I am neither a factory owner nor a factory worker.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI (*Tiruvella*): Sir, I wish to know whether personalities can be dragged into the discussion?

PRESIDENT: I do not think the actual Janardanan Pillai and Karunakaran are intended. The intention is the kind of ideal Karunakaran or Janardanan Pillai.

MR. V. K. VELAYUDHAN: I shall change the names into A and B. Suppose there is a strike in a factory owned by A and the labourers engaged in the factory owned by A goes on strike. Suppose B also runs a factory of the same kind. Let us take it that both are coir factories.

[Mr. V. K. Velayudhan.]

Then my position is that according to the explanation offered by the Law Member the Workers in the factory of B can also join in the strike of the labourers in factory A. But my apprehension is that under sub-clause 3 (b), the workers in factory B are not allowed to take part in the strike. They can take part only if they are engaged in the same trade or industry. The term same 'trade or industry' is defined under sub-clause 3 (b). The condition is that the terms of the wages or other agreements should be settled by the same employer. My submission is that as regards factory B its owner alone can settle the terms of wages and as regards factory A its owner alone can settle the terms of wages and other matters in that factory. It cannot be said that the condition of wages in factory A is settled in consultation with the owners of factory B or other factories of the same kind. Therefore the position comes to this. Even though the Law Member is prepared to concede the right of the labourers for sympathetic strikes, according to me it is clear that their right is taken away by sub clause 3 (b) as it stands in the Bill. Therefore I support the amendmnt. If the Law Member thinks that the labourers should have a right which they should legitimately have then, he should withdraw his objection.

MR. KAYALAM PARAMESVARAN PILLAI: I oppose this amendment. In regard firstly to the language, I may refer to the corresponding enactment of the mother of Parliaments. This is how the corresponding provision is put in the English Act ;

" It is hereby declared—

(a) that any strike is illegal if it. —

- (i) has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged; and
- (ii) is a strike designed or calculated to coerce the Government etc."

That is the language adopted by ladies and gentlemen who use English as their mother language. When we come to British India the language used is this :

" A strike or a lock out shall be illegal which—

- (a) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employees looking out are engaged; and (b.) and (c) "

So then there can be little dispute that the language used in the clause, as it is, is correct language and clearly brings out the idea that is involved. Apart from that, I still maintain that sympathetic strikes are under the clause permissible provided they do not seek to cause severe, general and prolonged hardship upon the community and thereby compel Government to take any action. If the mover of the amendment thinks that this is not made clear, then let him make it clear. The amendment, if it is accepted, will result in saying that all strikes must be declared to be legal whatever the circumstances may be. That is not permissible.

MR. JOSEPH VITHAYATHIL : The object of the amendment is not that. A strike may have different objects. In the clause as it stands the object of the strike should be only the furtherance of a trade dispute in the trade or industry of the strikers. If the object is the furtherance of a dispute in some other industry it does not come within sub-clause (a). The Law Member is of opinion that the language of the section is all right. I have no dispute with regard to the language. But, if the amendment is allowed it will make a change in the idea itself. There may be more than one object for a strike. The primary object may be the furtherance of a trade dispute in the same industry. At the same time there may be other objects also. According to the clause a strike with these objects will be penal. If besides the primary object which is not objectionable there is some other subsidiary object also then the strike will become penal, subject of course, to other conditions. According to me that will be very hard. As the clause stands at present there can be only one object for a strike and that should be the furtherance of a trade dispute in the same industry. The amendment makes other objects permissible provided one of the objects is the furtherance of a trade dispute in the same industry. I fear the law member has not appreciated the object of the amendment.

MR. KAYALAM PARAMESVARAN PILLAI : I shall deal with the object of Mr. Vithayathil which he says is that all sympathetic strikes must be allowed. I shall make the position in this respect clear. If you want to strike for your own ends then look to your own interests alone, and to nothing else. But if you want to strike for other purposes then please look to the security of the general public and see that it does not inflict severe, general and prolonged hardship. This is what the clause seeks to enact.

MR. JOSEPH VITHAYATHIL : If the strike is for my own affair and for the sake of other reason also what will be the position ?

MR. KAYALAM PARAMESVARAN PILLAI : The interest of the public must be your first consideration. Every man may have a right to preserve himself. But if you go beyond yourself, is it not your duty to look to the public interest ?

The amendment was put to vote and lost.

(At this stage the Deputy President took the Chair).

(Mr. Kannara Gopala Panicker who had given notice of Motion No. 34 stood up.)

MR. PULIYOOR T. P. VELAYUDHAN PILLAI : Sir, Motion No. 34 standing in the name of Mr. Kannara Gopala Panicker is identical with the second part of motion No. 33 (moved by Mr. Joseph Vithayathil) on which a decision has already been recorded by this House. I want a ruling from the Chair as to whether this amendment can now be moved.

MR. E. JOHN PHILIPPOSE (Thiruvella) : May I say that this point of order does not arise in view of the fact that the member in whose name the motion stands has not expressed his intention to move it.

DEPUTY PRESIDENT : Will the honourable member say what he means by the second part of motion No. 33 ?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI : " and delete the word "within the trade or industry in which the strikers or employers locking-out are engaged."

DEPUTY PRESIDENT : There is no motion before the House.

MR. KANNARA GOPALA PANICKER (*Mavelikara cum Kunnatur*): I do not move the motion.

MR. JOSEPH VITHAYATHIL : Sir, I beg to move the following amendment :—

"In Clause 16 delete sub-clause (2), and re-number the subsequent sub-clauses."

Sir, in the first place if a strike is illegal, certainly it is illegal to commence it or to continue it. So, this sub-clause is superfluous. Having said that in order to be considered illegal a strike has to satisfy the conditions laid down in sub-clauses (1) (a) and (b) it is not necessary to go further and say that it is illegal "to commence or continue, or to apply any sums in direct furtherance or support of, any such illegal strike or lock-out". Again a person who actually strikes work is not punished under clause 17. This sub-clause will therefore be in conflict with that clause. Considering both these aspects sub-clause 2 is unnecessary and meaningless. I therefore move for the deletion of sub-clause 2.

MR. V. K. VELAYUDHAN : Sir, I also support the motion. The baneful effect of this clause will be apparent when we consider the case of a strike which lasts for two or three weeks. The poor labourers may be launched in a court of law under several prosecutions. It becomes a continuous offence under this section and hence any number of prosecutions may be launched against the poor labourers for the same offence of having gone on a strike. This clause also prevents any pecuniary help from their co-workers or sympathisers. In view of these facts I support the motion.

MR. KAYALAM PARAMESWARAN PILLAI : Sir, I oppose the motion. The chief argument of the mover of this amendment is that the clause is meaningless and unnecessary. I may say at the outset that the Indian Enactment has an identical clause and the Select Committee of this Hon'ble House sat over the provisions of this Bill and they did not think it unnecessary. That being so, it does not seem to be correct to accuse the clause as unnecessary. That apart, it has got a particular purpose. It is this. Clause 1 states when a strike is illegal. Clause 2 states that it is illegal to commence and continue an illegal strike. Such a provision is necessary.

Mr. Velayudhan contented that this clause would preclude the labourers from getting any food or raiment during strikes. It would be hard if it were really so. But the clause does not intend it and does not say it. It only says "it shall be illegal to commence or continue, or to apply any sums in direct furtherance or support of, any such illegal strike or lock-out." There is nothing in this to prevent the

abourers from getting food or raiment. It does not lay down that no money should be spent for the supply of food and raiment to those who go on strike. The very position taken by Mr. Velayudhan is in support of the retention of this clause.

The motion was put to the vote of the House and lost.

MR. E. P. VARGHESE (*Ambalapuzha cum Shertala*): Sir, I demand a Poll.

A Poll was taken and the House divided as follows :—

NOES—29.

1	Mr. P. C. Adichan	16	Mr. C. O. Madhavan
2	Sahib Bahadur V. Chandamiah	17	„ C. V. Chandrasekaran
3	Mr. S. Chattanatha Karayalar	18	„ N. Narayana Kurup
4	Srimati K. Devaki Anthar- janam	19	„ R. Narayanan Namboori
5	Mr. E. E. Pandarathil	20	„ Kayalam Paramesvaran Pillai
6	„ D. Francis	21	„ J. E. A. Pereira
7	„ K. George	22	„ Codiveetil C. Ramankunju
8	„ M. L. Janardana Pillai	23	Rao Bahadur A. Rengaswami Aiyar
9	„ K. C. Karunakaran	24	Mr. M. Sivathanu Pillai
10	„ T. T. Kesavan Sastri	25	„ A. Thanu Pillai
11	„ S. Krishna Aiyar	26	„ J. W. Tolson
12	„ Puthupalli S. Krishna Pillai	27	„ G. B. E. Truscott
13	„ C. Kumara Das	28	„ Puliyoer T. P. Vel- ayudhan Pillai
14	Rao Bahadur Rajyasevanirata Dr. N. Kujan Pillai	29	Dr. James Simpson
15	Mr. K. Parameswara Panicker		

AYES—19.

1	Mr. Kottalil P. Abraham	10	Mr. M. G. Mathew
2	„ Kannara Gopala Panickar	11	„ P. Nanoo
3	„ Joseph Vithayathil	12	„ K. R. Narayanan
4	„ K. Kesavan	13	„ E. John Philipose
5	„ K. P. Kochukora Tharakan	14	„ P. J. Sebastian
6	„ Kaviyoer K. K. Kochu- kunju	15	„ K. T. Thomas
7	„ P. K. Kumaran	16	„ E. P. Verghese
8	Sahib Bahadur P. K. Kunju	17	„ V. K. Velayudhan
9	Mr. P. V. Mathai Chem- parathy	18	„ P. Vivekanandam
		19	Sry. C. O. Ponnama

NEUTRALS—3

1	Mr. K. G. Kunjukrishna Pillai
2	„ E. Subramonia Aiyar
3	„ G. P. Nilakanta Pillai

MR. M. L. JANARDHANA PILLAI (*Nominated*): Sir, I beg to move the following amendment;—

"In Clause 16, add the following as sub-clause (1) (c) :

"(c) is continued after a dispute is referred to a court or a board."

The clause amended will read thus:—

"A strike or lock out shall be illegal which is continued after a dispute is referred to a court or a board."

I do not think that I need take very much of the time of this House for speaking on this motion. It had been pointed out on more than one occasion in the course of the debate on this Bill that strikes or lock-outs should as far as possible not be encouraged if such strikes or lock-outs have no substantial basis to stand upon. It has been the constant experience of strikes in the Madras Presidency as has been testified to by Hon'ble Mr. Giri, whose speech I read yesterday, that strikes are very often brought into existence, without sufficient cause and they cause unnecessary and serious hardship to the labourers and to the employers. There must be sufficient reason to justify a strike. It is also common experience acknowledged by eminent men engaged in the field of, Industries and Trade that the average workman in India is not as responsible as his brother in other countries. Very often therefore these strikes are brought about even without reasonable cause and as a result of certain interested persons interfering in the matter. As the Hon'ble Law Member yesterday read from the Report of the Labour Commission, it is in many cases seen that strikes are brought about through the interference of interested political agitators. It may be within the knowledge of many members of this House that the present Governor of Bombay Sir Roger Lumby has declared that it is a matter for serious consideration by all concerned as to whether it is advisable to allow constant strikes and constant lock-outs and such quarrels between employers and employees. That will ultimately result in dislocating industrial concerns. If there is no industrial peace in the locality the economic equilibrium must necessarily be disturbed. During recent times a few first class textile mills were shifted from Bombay to more congenial places elsewhere where the industry could be carried on peacefully. Many of those strikes in Bombay had absolutely no real reasons to stand upon. Therefore it is to prevent such a catastrophe that this aspect of the case has been presented before this House during the last two days. I therefore take this opportunity to bring this amendment to the serious consideration of this House *viz.*, that as soon as a dispute is referred to a court or a board of enquiry, the strike or lock-out should be automatically stopped. Nobody wants to prolong any strike unnecessarily and create trouble to everybody. Why should any agitation be carried on when the matter has been referred to a board, unless it be that the labour leaders want to satisfy themselves that they have been able to win over hundreds of credulous labourers, unless it be that the leaders want, with the help of the usual slogans, to exploit the poor labourers and to prolong the strikes. Granting that there are differences between the employer and the employee, once the matters in

dispute have been referred to an impartial tribunal, why not the strike be put an end to? That is all the purpose of my amendment. I trust it will have sympathetic consideration at the hands of the Government members as also those of the non-official members of this House.

MR. K. G. KUNJUKRISHNA PILLAI: As I understood the Law-Member, three conditions must co-exist before Clause 16 can operate; one is the condition laid down in sub-clause (a), and the other two, those contained in sub-clause (b). The present amendment wants to add a fourth condition in order that Clause 16 can operate. I would like the mover of the amendment to enlighten me on the matter. As I have understood him so far, I think it is not acceptable.

MR. E. SUBRAMONIA AIYAR (*Nominated*): Sir, I am unable to accept the amendment, not on the ground of the expediency of its subject matter, but on a broader ground.

There is the provisions for referring disputes to a court or board. The court or board will make the necessary enquiry and publish its report from time to time. That is all that the board can do; and that is all that the Bill provides as a remedy in cases of dispute. An attempt at reconciliation is made, and a report is published. Is there any provision to suggest a final remedy which would prevent strikes and the consequences thereof? Even after the publication of the report by the court or board, it is quite open to the strikers to continue the strike if they are not satisfied with the decision of the board. The Legislature has not thought it necessary to empower the court or the board to pass any final decision binding on the employer and the labourer. That being the case I am not at all convinced about the remedy suggested, in the present amendment, for the intervening period when the matter is pending before the board. If a strike after the report will not be illegal, it does not stand to reason why it should be characterised as illegal during the period of enquiry. If the court or the board is empowered to decide the matter finally as the supreme arbiter, and if its decision is made final upon the employer and the employee, there will be some sense in preventing strikes during the period of enquiry. Once that is not found feasible or practicable, it does not seem reasonable to make strikes illegal during the period of enquiry alone. I therefore regret I am unable to support the amendment.

MR. KAYALAM PARAMESWARAN PILLAI: Sir, I wish very much that some honourable members who advocate labour interests had spoken on this amendment.

MR. JOSEPH VITHAYATHIL: We want to speak.

MR. KAYALAM PARAMESWARAN PILLAI: Then, I shall wait Sir.

MR. JOSEPH VITHAYATHIL: I oppose the amendment. The object of the amendment is to make a strike illegal the moment the dispute is referred to a court or board. Under Clause 3, it is open to the Government to refer any dispute to a court or board without the consent of the labourer or the employer. Therefore, if this amendment is accepted,

[Mr. Joseph Vithayathil.]

Government can make any strike illegal by merely referring it to a court or board. The amendment virtually changes the character of illegal strikes. Even a perfectly valid strike can be made illegal if the Government chooses to do it. An amendment somewhat similar to the present one was moved by a capitalist member in the Imperial Assembly: but it was strongly opposed by the Government itself and was thrown out. I hope the Law Member also will oppose the present amendment.

The learned mover of the amendment suggested that all those who might oppose his amendment were people who had no real interest in labour, and who had no other work to do except to exploit labour. I submit that this assertion is absolutely unfounded.

MR. M. L. JANARDANA PILLAI: The honourable member wants to put into my mouth words which I did not use.

MR. JOSEPH VITHAYATHIL: If I remember right, Sir, he said, in effect, that those who wanted strikes to continue even when the matter in dispute was under enquiry before a court or a board, had ulterior motives and were users of common labour slogans to win over credulous labourers. Sir, my friend's argument is a slogan usual with capitalists who always assert that they alone are the custodians of labour interests and that labour leaders are actuated by selfish motives. We certainly cannot attach any value to such statements.

I should think, Sir, that the present amendment will tend to stifle the growth of labour organisations in Travancore and is detrimental not only to the interests of labour but also to the interests of industrial peace in the country.

With these observations I strongly oppose the amendment.

MR. J. E. A. PEREIRA (*Commerce and Industry, South*): Sir, I am not sure of the efficacy of the present amendment. Once a subject matter is referred to a tribunal, the accepted canon is to cease the strike. If the aggrieved party is not satisfied with the decision of the tribunal it is open to them to resume the strike. Having referred the dispute to a tribunal, to continue the strike is an offence in itself and is punishable. Hence I consider the amendment is superfluous. I am sure the Law Member will further clear the matter.

MR. A. THANU PILLAI: I also oppose the amendment. As Mr. Kunjukrishna Pillai pointed out, it is not clear what exactly Mr. Janardana Pillai wants. Is it to add one more condition to those contained in sub-clauses (a) and (b)? I think that is not what he really wants. As I understand him, he wants a strike to be declared illegal if it satisfies the conditions laid down in sub-clauses (a) and (b), or even though it might not be otherwise illegal if it is continued after the dispute is referred to a court of enquiry or board. That, I take it, is his intention. On that basis, I oppose the amendment.

As was pointed out by Mr. Subramonya Aiyar, the board has not got the power to decide the disputes finally. It may make a recommendation which may or may not be accepted by the parties concerned. That being so, why should the strike be considered illegal during the pendency of the enquiry? A labourer has got the right to strike under certain conditions. That has been recognised by this Bill. Simply because an enquiry is pending or the dispute is under consideration by the Board, why should he forfeit that right? I do not see any justification in that. He must be allowed to exercise that right until his grievances are redressed. There is absolutely no basis, legal or equitable, for the present amendment. Further, it must be remembered that illegal strikes are punishable with imprisonment or fine. If a labourer is really convinced in good faith that he ought not to be compelled to work under certain conditions, he should not be compelled to resume work simply because the dispute is pending consideration of a court or board. That is highly inequitable. Hence I oppose this amendment.

MR. P. K. KUNJU : സർ. ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. എന്റെ ബഹുമാന്യസ്റ്റേഫിതൻ മി. ജനാർദ്ദനൻപിള്ളയുടെ ഭാഷയിൽ പറയുന്നപക്ഷം കേവലം വിവേകം ഇല്ലാത്തവരും കഥയില്ലാത്തവരുമായ പാവങ്ങളായ തൊഴിലാളികളെ ചൂഷണം ചെയ്യുന്നതിനുള്ള അദ്ദേഹത്തിന്റെ ആഗ്രഹം നിറവേറരുതെന്നുള്ള വിചാരംകൊണ്ടല്ല, വെറും യാചകവേഷംകെട്ടി ഏതുതരം കൊള്ളയും ചെയ്യുന്നതിനും സന്നദ്ധതയുള്ള ആളുകൾ പാവങ്ങളായ ആളുകളെക്കൊണ്ടു വേലാചെയ്യിപ്പിച്ച് അവരെ മിക്കവാറും കൊണ്ട് രക്തം കടിച്ചുതുക്കുകൊണ്ടും തൃപ്തിപ്പെടാതെ പിന്നെയും അവരുടെ മേൽ കത്തിച്ചെലുത്തുന്ന കറോറമായ ഇത്തരം മർദ്ദനശ്രമങ്ങളെ എതിർക്കണമെന്നുള്ള മോഹം ഒന്നുകൊണ്ടു മാത്രമാണ് ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നത്. ഈ ട്രെയിഡ് ഡിസ്പ്യൂട്ട് ബില്ലിലെ തത്വം അനുസരിച്ചു നോക്കുന്നപക്ഷം പല നിയമങ്ങളും വകുപ്പുകളും തൊഴിലാളികളുടെ വളർച്ചക്ക് ബാധകമായിത്തീരത്തക്ക നിലയിൽ ഇതിൽത്തന്നെ ഉണ്ടെന്ന് കാണാവുന്നതാണ്. അതൊന്നുകൊണ്ടും രൂപ്തിവരാത്തവണ്ണം, അവർക്ക് വലിയ സങ്കടങ്ങൾ നേരിടുമ്പോൾ ഉണ്ടാകാവുന്ന സ്കെട്സ്, അതു ന്യായപൂർവ്വമാണെങ്കിൽത്തന്നെയും ഒരു മദ്ധ്യസ്ഥ കോടതിയുടെ ആയോചനയിലിരിക്കുമ്പോൾ ആ കോടതിയുടെ തീരുമാനത്തെ അനുസരിക്കുന്ന കാലതാമസത്തിനിടക്കെങ്കിലും നിയമവിരുദ്ധമായ സ്കെട്സായി രൂപാന്തരപ്പെടുത്തിക്കിട്ടാൻ ആഗ്രഹിക്കുന്ന ഇക്കൂട്ടരുടെ ഭ്രാന്തമാണ് ഈ ഭേദഗതിയിൽ തെളിഞ്ഞുകാണുന്നത്.

MR. V. K. VELAYUDHAN : Sir, I very strongly oppose the amendment. To me it seems that this is a very clever device of defeating even a perfectly legitimate strike. In the case of a strike which is perfectly justified, the owner of the factory need do only one thing to make it illegal under this amendment. If he moves the authorities to refer the dispute to a board of conciliation or arbitration, the result will be that the strikers will be compelled to resume work. I congratulate the mover for finding out this very clever device of defeating the poor labourer. But I hope the Honourable Law Member will agree with us in saying that this is a clause which will restrict even the limited right of going on strike under this bill. This bill has considerably restricted the right of the worker to go on strike even in cases when he has a real grievance. But if this amendment is accepted even the restricted right of the worker to go on strike will be removed. I very strongly oppose the motion.

MR. KAYALAM PARAMESVARAN PILLAI : Sir, I think that the advocates of labour, if I may say so, have spoken unambiguously. I shall not at this moment pause to consider whether the apprehensions or labour are well founded or ill founded. There is obviously an honest apprehension. In view of this honest apprehension I shall also oppose the amendment. Though a matter may be referred to a court of board of arbitration its conclusions do not bind either party. Their recommendations may or may not be accepted by labour or by the employer. They can be effective only if there is *mutual* good will. The question would be how that good will can be assured. If the parties continue at strike *i. e.*, to say are at war, do you expect that good will to arise. It is only fair that both of them cease hostilities and resume work so that good will may be created in order that the recommendations may be accepted. There is something therefore to be said in favour of the amendment. But if labour is not quite satisfied, I will not say that this amendment should be accepted. If they want to oppose it I shall also oppose it. It has very often been alleged that this legislation is intended to suppress the rights of labour. They need not think that anything will be done by Government or by Honourable members of this House that will have the effect of suppressing the rights of labour.

MR. E. P. VARGHESE. May I know whether there is any provision like this in British India ?

MR. KAYALAM PARAMESVARAN PILLAI : There is no provision like this in British India or even in England. I will appeal to Mr. Janardana Pillai therefore and request him to withdraw his amendment. He has already drawn the thoughts of the members of this House to this question *viz.*, whether it is not advantageous to create a peaceful atmosphere of good will when a dispute is enquired into by a court or a board so that its decision may be accepted by both parties. If the advocates of labour are not prepared to accept this amendment and if they require more time to consider the matter, I would ask Mr. Janardana Pillai to allow them more time by withdrawing his amendment for the present.

MR. M. L. JANARDHANA PILLAI : Sir, I am considerably gratified that my point of view has been appreciated. I do not want to thrust my point of view if labour is feeling that capital is trying to imperil its interests. That is far from my object. My object was to see that when a matter is under enquiry there are no further hostilities. If that is not appreciated and understood by the representatives of labour interests, in view of the assurance given that my point of view has been understood by Government, I am quite prepared to withdraw my amendment, I may also add that if the Honourable Law Member thinks that my amendment is not in its proper place, I trust that he will find an early occasion so that the interests of both capital and labour in this direction might be saved and safeguarded. With these remarks, I withdraw the amendment.

The amendment was by leave withdrawn.

The question that clause 16 do stand part of the bill was then put and carried.

Clause 16 was added to the Bill.

(At this stage the President took the Chair.)

Clause 17.

MR. JOSEPH VITHAYATHIL : Sir, I move that the words "commences, continues" in Clause 17 (1) be deleted.

The proviso to this sub-clause says that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment. At the same time in the sub-clause it is said that any person who commences and continues a strike will be punished. According to me there is some conflict between the proviso and the clause, and so I move that these two words may be deleted. We do not find these words either in the British Indian Act or the English Act. These words may therefore be deleted.

MR. E. P. VARGHESE : I second it.

MR. KAYALAM PARAMESVARAN PILLAI : Sir, I oppose the amendment. My Honourable friend Mr. Vithayathil is quite correct in saying that these words do not find a place in the Indian Act. But in order to make the idea contained in the clause quite clear, it was considered necessary to add the two words. That apparently was the view taken by the Select Committee and they must have had good reason for it. In regard to the proviso, no doubt it is in conflict with the main clause as provisos always are. I shall explain the object of the clause and the proviso. It is not the object of this measure to punish any individual labourer merely because he ceases to work. In the previous clause a strike is defined as "a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment." That is a strike. This clause declares that if any particular strike is illegal any person who commences that strike or continues it does also an illegal act. But it is not intended to punish an individual labourer merely because he refuses to work.

MR. E. P. VARGHESE : Suppose he is a member of the strikers?

MR. KAYALAM PARAMESVARAN PILLAI : For the mere reason that he is one among the strikers and for the fact that he refuses to work he should not be punished. For instance a man may be employed in a particular factory and refuse to continue to work there. That by itself should not constitute an offence. We are trying to safeguard the interests of the individual labourer as much as possible.

The amendment was put to vote and lost.

The question that clause 17 do stand part of the Bill was put to vote and carried.

Clause 17 was added to the Bill.

Clause 18.

MR. KANVARA GOPALA PANICKER : സർ, ഈ ബില്ലിലെ ചുവ-ാം വകുപ്പ് എടുത്തുകളയണമെന്നുള്ള ഭേദഗതി ഞാൻ ഇവിടെ അവതരിപ്പിച്ചുകൊള്ളുന്നു.

ട്രേഡ് യൂണിയന്റെ ആഭ്യന്തരമായ ഭരണകാര്യങ്ങളിൽ അനായമായി കൈകടത്തുന്ന ഒന്നാണ് ഈ ബില്ലിലെ ചുവ-ാം വകുപ്പ്. ഈ കൈകടത്തൽ കൊണ്ട്, ഈ ചുവ-ാം വകുപ്പിന്റെ ഇൻഡോക്ഷൻ കൊണ്ട് ഒന്നൊന്നും ക്രമപ്രവൃദ്ധമായി വളർത്തുവരുന്ന തൊഴിലാളി പ്രസ്ഥാനത്തിന്റെ വളർച്ചയെ തടയാൻ കഴിയും. ട്രേഡ് യൂണിയൻ പ്രസ്ഥാനത്തെ തിരുവിതാംകൂറിൽ ശരിയായ രീതിയിൽ ചന്തുടങ്ങിയിട്ടില്ല. ഇവിടെ ഒരു ട്രേഡ് യൂണിയൻ ബിൽ അടുത്തകാലത്ത് മാത്രമേ പാസാക്കിയിട്ടുള്ളൂ. അത് ഇതുവരെ നടപ്പിലായിട്ടുമില്ല. ഗവണ്മെന്റിന്റെ ഔദാസീന്യം കൊണ്ടോ എന്തോ ട്രേഡ് യൂണിയൻ ബിൽ നടപ്പിലാക്കുന്നതിന് ആവശ്യമായിട്ടുള്ള റദ്ദുകൾ ഇതുവരെയും ഉണ്ടാക്കിയിട്ടുമില്ല. ഇങ്ങനെ ട്രേഡ് യൂണിയൻ പ്രസ്ഥാനം ശൈശവാവസ്ഥയിലിരിക്കുന്ന അവസരത്തിൽ ട്രേഡ് യൂണിയൻ പ്രസ്ഥാനത്തിലെ അംഗങ്ങളുടെമേൽ ശിക്ഷണപരമായ ഒരു നടപടി നടത്തുവാൻ ആ സംഘത്തിനുള്ള സൗകര്യത്തേയും അവകാശത്തേയും ഇല്ലാതാക്കുന്ന ഒരു വ്യവസ്ഥയാണ് ഈ ചുവ-ാം വകുപ്പിലടങ്ങിയിരിക്കുന്നത്. ഏതൊരു പ്രസ്ഥാനവും അഭിവൃദ്ധിപ്പെടുകയും ശക്തിപ്പെടുകയും ചെയ്യണമെങ്കിൽ ആ പ്രസ്ഥാനത്തിലുൾപ്പെട്ട് അംഗങ്ങളുടെമേൽ ശിക്ഷണപരമായ നടപടി നടത്തുന്നതിനുള്ള സ്വാതന്ത്ര്യവും സൗകര്യവും അവകാശവും ആ പ്രസ്ഥാനത്തിനുണ്ടായിരിക്കണം. അതിനാൽ ഈ ചുവ-ാം വകുപ്പ് ഉൾപ്പെടുത്തിയിരിക്കയാണെങ്കിൽ ന്യായമായും തൊഴിലാളി പ്രസ്ഥാനത്തിന്റെ അഭിവൃദ്ധിക്ക് തടസ്സമുണ്ടാകാതിരിക്കയില്ല. തൊഴിലാളികൾ അവ

രുടെ സങ്കടപരിഹാരത്തിനായി അവരുടെ ഒരുചൊതുനിശ്ചയമനുസരിച്ച് എന്തെങ്കിലും ഒരു സ്കീം തുടങ്ങുകയോ മറ്റൊരു ചെയ്യാൽ അങ്ങിനെയുള്ള സ്കീമിൽ ഭാഗഭാക്കുകളാകേണ്ടതു അതിൽപെട്ട അംഗങ്ങളുടെ കർത്തവ്യമാണ്. പരമ്പ്രദായംകൊണ്ട് അപ്രകാരം ചെയ്യാതെ ചിലർ മാറിനിന്നേക്കാം. അങ്ങനെയുള്ളവരുടെ പേരിൽ നടപടി നടത്തുന്നതിനെ തടസ്സപ്പെടുത്താത്തവിധത്തിൽ ഒരു നിയമമുണ്ടാക്കുന്നതു ആ പ്രസ്ഥാനത്തിന്റെ വളർച്ചയെ തടസ്സപ്പെടുത്തുന്നതായിരിക്കും. ട്രെയിഡ് യൂണിയൻ ശരിയായവിധത്തിൽ നടപ്പിൽവന്നശേഷമാണ് ഈ ഫു-റംവകുപ്പ് ചേർത്തത് എങ്കിൽ ഒരുപക്ഷേ അത് വലിയ ഭോഷം ചെയ്യുകയില്ലായിരിക്കാം. ഇന്നത്തെ പരിതഃസ്ഥിതിക്ക് ഫു-റംവകുപ്പ് തൊഴിലാളിസംഘത്തെ വളരെ കർശനമായി ബാധിക്കുന്ന ഒന്നാണ്. അതുകൊണ്ട് അതിനെ എടുത്തുകളയണമെന്ന് ഞാൻ അഭിപ്രായപ്പെട്ടുകൊള്ളുന്നു.

MR. P. K. KUNJU : സർ, ഞാൻ ഈ ഭേദഗതിയെ പിൻതാങ്ങുന്നു. ഈ ഭേദഗതിയും മറ്റു പദ്ധതിനെയും പോലെതന്നെ തൊഴിലാളിപ്രസ്ഥാനത്തെ വേണ്ടുവണ്ണം ഉപദ്രവിക്കുന്ന ഒന്നാണ് എന്നാണ് എന്റെ അഭിപ്രായം. വാചാലസംഘങ്ങളുടെ തണുപ്പിൽനിന്നുകൊണ്ട് അവയുടെ വ്യവസ്ഥകൾക്ക് അധീനരായി പ്രവർത്തിക്കേണ്ട വേലക്കാർ അതിനു വിപരീതമായുള്ള പ്രവർത്തികൾ കൊണ്ട് ആ സംഘങ്ങളുടെ വളർച്ചക്കും സംഘത്തിലെ ഭരണക്രമങ്ങൾക്കും വിചാരം ഉണ്ടാക്കുന്നപക്ഷം അവരുടെമേൽ അവരെ നിയന്ത്രിക്കുന്നതിന് ആവശ്യമായ നടപടി നടത്തേണ്ടത് ആ സംഘങ്ങളെയും ആ സംഘത്തിലുൾപ്പെട്ടവരെയും സംബന്ധിച്ചിടത്തോളം അത്യാവശ്യമായ ഒരു സംഗതമാണ്. ആ സ്വാതന്ത്ര്യത്തെ അനാവശ്യമായി തടയുന്ന ചിലനിയമങ്ങൾ നടപ്പിൽ വരുത്തുന്നത് സംഘങ്ങളുടെ നടത്തിപ്പിനും സാമാന്യരായവർക്കുമുള്ള സൗഹൃദം വളരെ തകരാറുകൾ സംഭവിക്കാനുണ്ടുണ്ട്. ഇതു സംഘങ്ങളെ നാമാവശേഷമാക്കുന്നതെന്നും സംഘാംഗങ്ങളെ അനിയന്ത്രിതരാക്കുന്നതിനും കാരണമായിത്തീരുന്നതാണ്. ഇങ്ങനെ സംഘങ്ങളുടെ താല്പര്യത്തിനും നിർദ്ദേശത്തിനും വിപരീതമായി പ്രവർത്തിക്കുന്നവരോടു ചോദ്യം ചെയ്യാനുള്ള വകാശം സംഘങ്ങൾക്ക് അധികാരമുണ്ടായിരിക്കണമെന്നും നിർബന്ധമില്ലെന്നുവരുന്നതു ശരിയല്ല. മാത്രമല്ല ഈ വകുപ്പുകൊണ്ട് മറ്റൊരു നിർദ്ദേശംകൂടി സ്വീകരിച്ചിരിക്കുന്നതായി കാണുന്നുണ്ട്. അതായത് വ്യാപാരസംഘങ്ങളുടെ താല്പര്യത്തിനും നിർദ്ദേശത്തിനും

[Mr. P. K. Kunju.]

വിപരീതമായി പ്രവർത്തിക്കുന്ന ആളുകളുടെമേൽ എന്തെങ്കിലും ശിക്ഷണപരമായ നടപടി എടുക്കേണ്ടിവരുമ്പോൾ അതിലേക്കുള്ള പരിഹാരം ഒരു കോടതിമുഖാന്തരം സ്ഥാപിച്ചുകൊടുക്കുന്നതിനും സംഘത്തിന്റെ തീരുമാനത്തെ അസ്ഥിരപ്പെടുത്തുന്നതിനുമുള്ള ഒരു വ്യവസ്ഥകൂടി ബില്ലിൽ ചേർത്തിരിക്കുമ്പോൾ സംഘങ്ങളുടെ ശരിയായ പ്രവർത്തനം നടക്കാൻ മാർഗ്ഗമില്ലാതെ വരും. അതായത് സംഘതാല്പര്യത്തിനും നിർദ്ദേശത്തിനും വിപരീതമായി പ്രവർത്തിക്കുന്ന ഒരാളിന്റെ മേൽ സംഘം ശിക്ഷണപരമായ നടപടിനടത്തുമ്പോൾ അതിലേക്കു സംഘം പിഴ ഒടുക്കുന്നതിനു തീരുമാനിക്കുന്നതിനും കോടതിക്കധികാരമുണ്ട്. ഇതു ഒരിക്കലും ശരിയല്ല. അതിനാൽ ഈ ഭേദഗതി സ്വീകരിക്കണമെന്നാണ് എന്റെ അഭിപ്രായം.

MR. V. K. VELAYUDHAN : I strongly support the amendment. From the point of view of labour interest, the Section 18 is the most harmful one in the whole Bill. It strikes at the very root of trade union movement in the State. Labour movement in the State is now not at all organised. We all desire that labour should be organised and an organised trade union movement should come into existence soon. The very essence of any organisation is its discipline. An organisation without any discipline is as bad as no organisation at all. Take the case of a trade union which unanimously resorts to go on strike. It may be that such a strike may come under the category of illegal strikes under the provisions of the Bill. The manager of the factory concerned might have prevailed upon one of its members to keep back and not to join the strike. The trade union must at least be given the liberty to take disciplinary action against the member who has backed out. Even that fundamental right is sought to be taken away by clause 18 of the Bill. If you care for labour interests, if you want the growth of trade unions in the State, I appeal to the House that this clause should be deleted. Therefore I support the amendment.

MR. M. G. MATTHEW (*Karunagapally cum Kartigapally*): I also support the amendment. This provision practically strikes at the very root of Trade Unionism in the State. That trade unions should have rules for their guidance and conduct of the members will be agreed by all. This Section is one which is intended to encourage as it were, the keeping back of certain members of the trade union when it is going out on strike. If the members who constitute the union are allowed to keep back and not made liable to the disciplinary action of the union, certainly it means that trade unions cannot work successfully.

MR. E. P. VARGHESE : May I know whether it is proper to punish a labourer because he does not take part or rather refuses to take part in an illegal strike?

MR. M. G. MATTHEW : The whole question depends on the attitude taken by that individual. If he really means to back out of a legal strike, then he must not be punished. In fact he may really think that the strike is legal. But extraneous forces may prevent him from taking part in it. He might be keeping aloof as a result of those circumstances. If he goes on infringing the rules of the union when the strike is in progress and when all the members are taking part in that strike, it may affect the result of the strike and make it ineffective. Certain rules are intended for the growth of trade union development in the country. In my opinion section 18 to a large extent takes away the impetus for the growth of trade unions of the State and as such I strongly oppose the insertion of the clause in the Bill and support the amendment.

MR. E. SUBRAMONIA AIYAR : Sir, I oppose the amendment. This Section becomes necessary as a consequence of Section 16 in the Bill. Once you accept clause 16 and accept the principle that strikes and lock-outs are made illegal, the existence of clause 18, as it is, is imperative. The question that arises for our consideration is whether a trade union should be permitted to enforce the loyalty of any member thereof to the extent of compelling that member to commit an illegal act. In the modern state every citizen is called upon at all times to preserve as far as possible the loyalties to the different organisations of which he is a member voluntarily or otherwise. No body will deny that loyalty to the community is the most paramount one and in the interests of the state such loyalty will have to be insured against all risks. In other words the primary duty of a citizen, and I do not think that any person will dissent from me on this point, is not to break the law. That is his first and the primary duty. He might be the member of an organisation voluntary or not and it is his duty also to comply with the rules and laws of the groups to which he belongs. When conflicts arise can we say that the loyalty to the group must be given preference and the loyalty to the community must be allowed to go. Loyalty to the State must be supreme. I can understand the opposition to clause 16. Once it is accepted that clause 16 should stand, that a particular strike or lock-out is illegal, it appears to me that clause 18 is nothing but the affirmation of a sound *norm* of life and law. If we look at the matter dispassionately there will not be any difficulty. After the House has accepted that Section 16 should stand, that certain strikes and lock-outs are illegal, a trade union should not be given the power to coerce a man to do an illegal act. So I would appeal to the House to take this aspect of the matter and resolve the matter in favour of the community and not in favour of the group.

MR. K. G. KUNJUKRISHNA PILLAI : I support the motion. Having listened with great respect to the exposition of my learned friend I stand unconvinced. In fact there is no conflict of loyalty as is interpreted by my learned friend in this case. I support Section 18 because it is necessary in the interest of the community as a whole

[Mr. K. G. Kunjukrishna Pillai.]

Section 18, I submit, is unnecessary in the interest of the community as a whole. It is unnecessary in the interest either of labour unions or of those particular persons who when the union decides to strike stick on to their jobs. Section 16 makes something penal because it is felt that the community as a whole must be protected and Government activities must be carried on in times of great emergencies. Under Section 18 you strike at the root of the only loyalty possible, that is the loyalty to the organisation and the institution. What is the good of saying to the labourer, go and join a union, but when the time comes you stick on to the job and we will protect you. I am of opinion that a labourer who joins a union, and who has the fullest freedom to discuss with other labourers whether a strike is legal or not must get out of the union if a strike is decided on. A member of a union which is united by a common loyalty, may not be encouraged as occasion arises to go out of that camp easily. If we are honest and if we want to improve the lot of the labourers then we must allow them at least this right. You are allowed to organise unions and join in them. But when you decide to strike there may be people who may disagree. Why not such people be satisfied in the going out of the Union? I submit that the interests of the community do not at all come in there. The community does not suffer whether the Union consists 50 persons or 100 persons. It only looks whether its interests are protected or not. If they are protected the community considers who is right, whether the labourer or the employer. This matter has to be decided after hearing both the parties. I say the labour union has got a right to say who shall not agree with me shall not live in the same camp. The section says that such a person shall not be punished, but protected.

Sub-clause (2) says ".....and in any such proceedings the civil court may, in lieu of ordering a person who has been expelled from membership of a trade union to be restored to membership, order that he be paid out of the funds of the trade union such sum by way of compensation or damage as that court thinks just." I think it should be the other way. In no case should we allow the court to compel the union to specific performance. Do you think it right to keep a man as a member of a union who does not stick to the general opinion of the union? If at all he goes to a court of law only compensation shall be given.

One word more and I shall be done. Every person enters a union under a contract. He can continue to be in that union even when section 16 is put into operation if the contract provides. If that contract can be enforced what necessity is there for Section 18, I ask, except to pull down a union by their legs. Therefore I feel strongly that in the interest of labour this section is unnecessary and mischievous. With these words, I support the motion.

MR. KAYALAM PARAMESVARAN PILLAI: I oppose the motion. I will put it firstly on the ground that a person should not be *compelled* to do illegal acts. Mr. K. G. Kunjukrishna Pillai said that if this provision is retained it will hinder the growth of trade unions in this country. But the principle that no person should be *compelled* to do an illegal act is right and stands all the same. I do not think too that Mr. K. G. Kunjukrishna Pillai will advocate that because a person refuses to take part in any illegal act he should be deprived of his civil rights including his rights in trade unions. Why should such rights be interfered with? This House has already decided what kind of strikes is illegal. Having decided that, is it right, I ask, to deprive a man of his civil rights simply because he does not take part in that illegal act? Further if the condition of joining a trade union is such that one will be deprived of his civil right if he refuses to do an illegal act then I say that it is that condition that hinders the growth of trade unions. No labourer who knows his business will go into such trade unions. We all wish that healthy trade unions should spring up and grow in this country. If these are the conditions of a trade union then I ask whether it is possible for trade unions to spring up, let alone the flourishing of such unions. The real question then for the house to consider is whether the imposition of such a condition in trade unionism will be conducive to the growth of trade unions in this country. This of course is apart from the principle that no person should be compelled to do an illegal act.

The amendment was put to vote and lost.

MR. KANNARA GOPALA PANICKER: I demand a poll.

A poll was taken and the house divided as follows:—

AYES—20.

- | | |
|------------------------------|----------------------------|
| 1. Mr. Kottalil P. Abraham | 10. Mr. P. V. Mathai Chem- |
| 2. „ Kannara Gopala Pani- | parathy |
| cker | 11. „ M. G. Mathew |
| 3. „ Joseph Vithayathil | 12. „ P. Nanoo |
| 4. „ K. Kesavan | 13. „ S. Narayana Pillai |
| 5. „ K. P. Kochukora Thara- | 14. „ K. R. Narayanan |
| kan | 15. „ S. Nilakanta Pillai |
| 6. „ P. K. Kumaran | 16. „ E. John Philipose |
| 7. Sahib Bahadur P. K. Kunju | 17. „ P. J. Sebastian |
| 8. Mr. P. Kunjukrishnan | 18. „ K. T. Thomas |
| 9. „ K. G. Kunjukrishna | 19. „ V. K. Velayudhan |
| Pillai | 20. „ P. Vivekanandam |

NOES—34.

- | | |
|---|---|
| 1. Mr. P. C. Adichan | 19. Mr. C. O. Madhavan |
| 2. Sahib Bahadur V. Chanda-
miah | 20. „ R. Narayanan Nam-
boori |
| 3. Mr. C. V. Chandrasekharan | 21. „ Kayalam Paramesvaran
Pillai |
| 4. „ S. Chattanah Karayalar | 22. Mr. K. Parameswara
Panickar |
| 5. „ M. L. D'Cruz | 23. „ J. E. A. Pereira |
| 6. Srimathi K. Devaki Anthar-
janam | 24. „ R. Pitchu Aiyangar |
| 7. Mr. E. E. Pandarathil | 25. „ K. M. Eapen |
| 8. „ D. Francis | 26. „ Ramiah Pillai |
| 9. „ K. George | 27. Rao Bahadur A. Rengaswami
Aiyar |
| 10. „ M. L. Janardana Pillai | 28. Mr. James Simpson |
| 11. „ N. John Joseph | 29. „ M. Sivathanu Pillai |
| 12. „ K. C. Karunakaran | 30. „ E. Subramonia Aiyar |
| 13. „ T. C. Kesava Pillai | 31. „ A. Thanu Pillai |
| 14. „ T. T. Kesavan Sastri | 32. „ J. W. Tolson |
| 15. „ S. Krishna Aiyar | 33. „ G. B. E. Truscott |
| 16. „ Puthupalli S. Krishna
Pillai | 34. „ Puliyoer T. P. Velayudhan
Pillai |
| 17. „ C. Kumara Das | |
| 18. „ Rao Bahadur Rajyaseva-
nirata Dr. N. Kunjan Pillai | |

NEUTRALS—6.

- | | |
|-------------------------------------|--------------------------------------|
| 1. Mr. N. Narayana Kurup | 4. Mr. Codiyeetil C. Raman-
kunju |
| 2. „ Kaviyoer K. K. Kochu-
kunju | 5. „ T. M. Varughese |
| 3. „ G. P. Nilakanta Pillai | 6. „ Velu Achary |

The question that Clause 18 do form part of Bill was put and carried.

The clause was added to the Bill.

The question that clause 19 do form part of the Bill was put and carried.

The clause was added to the Bill.

PRESIDENT: The House will now adjourn and meet again at 2 p. m.

(The House rose for lunch at 1 p. m. and met again at 2 p. m. with the President in the Chair.)

MEMBER SWORN IN.

The following member then took the oath and signed the rolls :
Mr. M. Govinda Pillai (Principal Port Officer).

Clause 2.

SRIMATHI C. O. PONNAMMA (*Nominated*) : Sir, I beg to move that in clause 2, sub clause (d), line 4, after the word "directly" the words "or indirectly." may be inserted.

The clause relating to the amendment is as follows :

"A person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Court or a Board if he is unconnected] with the dispute with reference to which the Court or the Board is appointed and with any trade or industry directly affected by the dispute".

My object in moving the amendment, Sir, is to secure impartial treatment in the settlement of Trade Dispute to the employees. If persons who are interested in a particular industry in which the dispute arises are to constitute a Board of Enquiry they may not be able to deal with the dispute in an impartial manner so that it may not lead to abuse of powers. Sir, with these words I move the amendment.

MR. P. K. KUNJU : I second it.

MR. KAYALAM PARAMESVARAN PILLAI : I quite agree with the object of the motion. That the gentlemen, or ladies, who constitute the Board or the Court should be impartial is unquestionable. It seems to me for that purpose it is not necessary that those who are considered indirectly connected with the dispute should also be included. There is however no serious objection, on my part, if the House wants it. I would formally oppose the motion and say I am prepared to take the verdict of the House.

The motion was put to the vote of the House and carried.

MR. KANNARA GOPALA PANICKER : Sir, I beg to move that in clause 2, sub-clause (b) (i), omit the words "or other transport".

‘അദർ ഓൻസ്പോർട്ട്’ എന്നു പറയുന്നതിൽ മോട്ടോർവാഹനങ്ങളും വള്ളങ്ങളും മറ്റു പലതരത്തിലുള്ള വാഹനങ്ങളും ഉൾപ്പെടുന്നതാണ്. ഇതെല്ലാംകൂടി ഇതിൽ ഉൾപ്പെടുത്തുന്നതായാൽ നിയന്ത്രണാതീതമായി വന്നേക്കാൻ എളുപ്പമുണ്ട്. അതുകൊണ്ട് ‘അദർ ഓൻസ്പോർട്ട്’ എന്നുള്ളത് എടുത്തുകളയേണ്ടത് അത്യാവശ്യമാണെന്നുള്ള ഭേദഗതിയെ ഞാൻ ഇവിടെ അവതരിപ്പിച്ചുകൊള്ളുന്നു.

MR. V. K. VELAYUDHAN : I second it.

MR. KAYALAM PARAMESVARAN PILLAI : As the House is aware Government have recently embarked upon a Transport business in the interest of the general public. The matter was specifically before the House during the previous Session. In view of that fact the words in question should not be deleted, as all such transports should also be considered as public utility services in order that they may come within the purview of clause 16. The railway is a public utility service. So also must the Motor Transport Service be.

PRESIDENT : To explain it further, no service which is not operated by Government other than the railway will be considered as a public utility service. If a private company conducts a transport business it will not be considered for the sake of this Bill as a public utility service. But it must be recognised by Government.

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MR. KAYALAM PARAMESVARAN PILLAI: Yes, Sir, there must be recognition by the Government. Then only can it become a public utility service. There is no reason for Mr. Gopala Panicker to apprehend evil consequences by the retention of the words in question. I trust he will withdraw the amendment.

The motion for the amendment was by leave withdrawn.

MR. S. NARAYANA PILLAI (*Quilon cum Kottarakara*): Sir, I beg to move that in clause 2, sub-clause (j) may be placed after sub-clause (e) and the other sub-clauses, renumbered.

Sir, the amendment is trivial and the object in moving this is to make the definitions in the Bill more clear and easy for reference.

MR. KANNARA GOPALA PANICKER: I second it.

MR. KAYALAM PARAMESVARAN PILLAI: I oppose the amendment. Sir, I find that there is nothing to be gained by this amendment and it would be better if the clause is left as the Select Committee has passed it. Therefore I oppose it.

The amendment was put to vote and lost.

The question whether Clause 2 as amended stands part of the Bill, was put to vote and carried.

Clause 2 as amended was added to the Bill.

Clause 3.

SRIMATHY C. O. PONNAMMA: Sir, I beg to move the following amendment:—

"In Clause 3, proviso in line 1:—

insert the words "either or" between the words "where" and "both" and in line 2, insert the words "either or" between the words "where" and "both".

The proviso relating to the amendment reads as follows:—

"Provided that, where both parties to the dispute apply, whether separately or jointly for a reference to a Court, or where both parties apply, whether separately or conjointly, for a reference to a Board, and the authority having the power to appoint is satisfied that the persons applying represent the majority of each party, a Court or a Board, as the case may be, shall be appointed accordingly."

As the proviso stands at present a court or a board shall be appointed only if both parties of the dispute apply for reference to a court or a board. But in the matter of Trade Disputes it would be very difficult for both the parties to come to an agreement with regard to referring the dispute to a mediator. It may also lead to unnecessary delay in constituting the Board. So, if at all there is to be any effect which this clause intends to give, a court or a board shall be appointed at the instance of any party to the dispute. With these words I beg to move the amendment.

MR. P. K. KUNJU: I second it.

MR. P. KUNJUKRISHNAN (*Quilon cum Kottarakara*): Sir, I beg to support the motion. The proviso reads that both parties to the dispute should apply. It means that both parties to a dispute should apply to

the authority concerned if a court or a board is to be instituted. In my opinion this would take away the benefit that is intended to be arrived by the introduction of this Bill. I am of opinion that it is not possible that both the parties should apply for an agreement under normal circumstances. It is because they differ in views that the disputes arise. And if they can come to an understanding on this particular point they can as well agree in the main issues. This is impracticable.

Generally it is the labourer that is aggrieved and the employer who has no grievances will not possibly be applying. And even supposing the employer has some grievances as in the case of an employer whose employees strike work, he can save himself from trouble by any number of ways open to him than applying for a Court or a Board. In such cases the employees will be put to immeasurable hardship.

MR. JOSEPH VITHAYATHIL : Does it not mean that applications could be made in two separate petitions ?

MR. P. KUNJUKRISHNAN : I am of the view, Sir, that, according to the Section as it is, a board can be constituted only if both the parties apply.

Again we have the case of the employer and the employee, the former rich and influential and the latter poor and illiterate. The labourer is at a disadvantage by means of his position and he strikes work only as a last resort when there is severe hardship on him. And by striking work, he alienates the sympathy of the employer. And under the circumstances he can never get the employer to apply particularly when the employer is in an advantageous position. Here there is the unequal combination as it were. This is as much as saying that if the employee agrees on the terms suggested by the employer the authorities will interfere in the matter. This is most detrimental to the interest of labour. It will stifle labour in its infancy.

In conclusion I may add that the position of labour has to be viewed sympathetically. It is the duty of the Government and the Legislature to see that the labourers are put to as little difficulties as possible. I therefore support the amendment.

(At this stage the Deputy President took the Chair.)

MR. KOTTALIL P. ABRAHAM (*Muvattupuzha cum Devicolum*): The object of this amendment, as I understand it, is to give either party—that is, any one of the parties singly—the right to apply for and get either a board or a court as desired. The wording of the amendment, I am afraid, is defective and would not serve the purpose for which it is intended. It looks as if the idea underlying this amendment is better expressed in the amendment No. 13 in our list which will soon come up for discussion. The proviso in the bill which is sought to be amended provides for cases where both the parties make the application. It says that if both the parties apply for a board, a board only and not a Court shall be appointed. It also says that if both the parties apply for a court, a court only and not a board shall be appointed. It is obligatory under the proviso that the Government should appoint

[Mr. Kottalil P. Abraham.]

the court or the board whichever is applied for by both the parties. There is no such obligation under the main section whose proviso we are seeking to amend. The main section sanctions the Government to act according to their discretion. The proviso however does not say what is to be done when one party wants a board while the other party wants not a board but a court. It does not also say what is to be done when one party required either a board or a court and the other party does not express any assent or dissent thereto. The proviso as it stands in the Bill is an absolutely necessary clause. To amend that in the manner proposed by the honourable mover will create confusion and at times land us in absurdity. To express the idea of the mover an additional proviso will suit better. Amendment No. 13 appears to be such an additional proviso, expressing the present mover's idea better. It will be scrutinised when we come to that. Meanwhile, I think it is better that the present amendment is dropped here and its idea taken into consideration when amendment No. 13 comes up. This is all my suggestion.

MR. E. SUBRAMONIA AIYAR: Clause 3 consists of two parts, the main Clause and a proviso. (Mr. Kayalam Paramesvaran Pillai: *Louder, please.*) The main part says—

"If any trade dispute exists or is apprehended, Our Government.....may, by order in writing, refer the matter to a court or to a board as the case may be."

The House will kindly note the word '*may*'; as soon as the existence of a dispute is brought to the notice of the Government, or even if they *apprehend* a dispute, it is open to the Government to refer the matter to a board; they are not obliged to do it, but it is left to their option. Now, when we come to the proviso, the word used is '*shall*' there is no option.

Now, the question to be considered is whether, if, as suggested by the amendment, we make it obligatory on the part of the Government to institute a board even when one party asks for it, would it be practicable for the Government to do it? It is the practicability of the suggestion that we have to consider in dealing with the present amendment. In my view, no Government in modern times will commit any dereliction of duty in the matter of securing harmony between the employer and the employee. No Government can afford to ignore that matter. If trade disputes are not immediately taken on hand, the situation will become intolerable. I am sure any Government, if it deserves that name, will see to it that there is no manner of dispute or hostility between the employer and the employee. On that basis, I put it to the House to consider whether the obligation should be cast upon the Government to institute a court of enquiry or a board merely if one party asks for it. The desirability and practicability of such a measure is, as I have already stated, the matter for consideration now.

It may be said as a counter-argument that mere application does not entail such an obligation upon the Government, because there are the words :—

“and the authority having the power to appoint is satisfied that the persons applying represent the majority.”

It is for the House to consider how far this will be a check upon frivolous applications.

The position I now assume is not one of opposition to or acceptance of the amendment. I am only pointing out that, in present day conditions, it is not necessary that we should make it obligatory upon the Government to institute courts of enquiry merely at the instance of one of the parties to a dispute. It may be that there is only one workman or just two, who apply for the institution of a court; because that is what the definition says. I am just submitting whether any provision is necessary to make it obligatory on the Government to institute a court, or a board on the application of just one party to a dispute. We are giving wide discretion to the Government to interfere in all cases of dispute and to institute courts of enquiry *suo moto* even in cases where a dispute is only *apprehended*. These are days when we have labour disputes everywhere. No Government can rest in peace unless it steps in early enough and creates a favourable, peaceful situation. It is the paramount duty of every Government to avoid controversies, because they may lead to breach of the peace. No Government is possible and no society can progress in an atmosphere of discord and disorder. Whatever activities and functions the modern State have assumed or had to assume in its evolution, its primary function and the most vital one that of ‘peace and order’ is essential to its very existence and that of the community whose well being is its ultimate concern. I do not propose to expatiate further on this aspect of the matter. As I said before, we can confidently trust that the Government will not fail to discharge its functions of preserving peace and order which can be done effectively only by removing the causes of disputes, and settlements thereof when they arise. So in my view this large discretion vested on Government is more than enough for the purpose. It is not practicable and it is not necessary to constitute a court of enquiry on the application of one party. That is all my point.

MR. E. P. VARGHESE: May I know whether it is not necessary that a person who applies must have the support of the majority?

MR. E. SUBRAMONIA AIYAR: In deference to the questioner I may repeat what I have said. My attitude is not one of opposition. I attempted to point out whether or not the main provision will not adequately meet the necessities of the situation that may arise. If the first provision did not exist, I would have very earnestly supported the amendment. But if you feel that in this particular matter we cannot accept the alertness of the Government, certainly you may have it i. e., the amendment.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI : Sir, I oppose the amendment. If the proposed amendment is accepted it will virtually be a provision for compulsory reference of all trade disputes either to a court of enquiry or to a board of conciliation. I submit that that state of affairs should not be permitted to be brought about. In the first place if we accept the proposed amendment it will create numerous difficulties in its practical working. As observed at page 345 of the report of the Royal Commission on labour, I believe that the effect of the proposed amendment on labour will be disastrous. It will create a general tendency to look to some external authority for preservation of industrial peace. Another defect will be that it will also discourage settlement by the industry itself. It cannot but be admitted by all right-thinking men that it is absolutely impossible to refer all trade disputes to a court of enquiry or a board of conciliation. It then follows that the discretion must remain with some authorities to determine whether the statutory machinery should be invoked or not. Under the circumstances I consider that we cannot find a better authority than Government to decide this particular question. For these reasons I oppose the amendment.

MR. V. K. VELAYUDHAN : Sir, I support the amendment. The very object of the bill is to investigate and settle all differences between capital and labour. The proviso as it stands is very often calculated to work in actual practice against the interests of the poor labourer. There might be disputes in which the labourer may have a real grievance. It may be admitted on all hands that his grievance is just and reasonable and he may be only too ready to apply to the authority who is competent, to refer the matter to a court of enquiry or to a board of conciliation. In such a case, the rival party, *viz.*, the employer will use all his influence to see that the matter never goes to a court of enquiry. It may be said that the officer appointed in this behalf may act impartially. In theory it may be alright. But in practice, what we all experience is that when officers go and investigate in such matters the case of the poor labourer is seldom represented. I have known of cases where the labourer or his representative comes to know of the enquiry only after the report has been published. The officer goes to the place and meets the employers with whom he may be well acquainted. I do not say he is doing it intentionally. It is only quite natural. The matter is very often likely to be misrepresented by the employer. Neither labour nor its representative is sent for by the investigating officer. The result is that the whole thing is misrepresented and the officer concludes the enquiry under the impression that this is a case in which there is no real hardship to the labourer. That is the way in which, according to me, the section is going to be worked. If any real good is intended by this proviso, then the officer must, as a matter of course, refer every dispute to a court of enquiry even where the employer or the employee alone makes an application. With these observations I support the amendment.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I oppose the amendment. I am afraid that much of what has been stated in support of the amendment is based on thorough misconception. One of the material provisions of this bill is to try to resolve labour disputes by the appointment of a court or a board. I trust that even those who advocate labour will agree that one of the most important provisions of the bill is the constitution of such boards or courts. The functions of the court and the board are different. In one respect they are the same *viz*, their conclusions cannot be enforced. They are only recommendatory and can be brought into effect only by force of public opinion. The main clause provides that if a trade dispute exists Government *may* refer it to a court of enquiry or to a board of conciliation. In other words, whenever there is the apprehension of a dispute Government *may* refer it either to a court or a board. But if both parties call for a court, so says the clause a court alone shall be appointed. And, if both parties require a board, a board alone shall be appointed. Such is the provision. In such cases, Government cannot intervene and superimpose their own views. That is to say, though the Government have at the outset a discretion in referring the dispute to a board or to a court; if both parties want a court, a court alone shall be given, and if both parties want only a board, a board alone shall be given. But if this amendment is passed, and if one party applies for a court, then a court should be granted. Similarly if a board is applied for, that should be given. But if one party applies for a court and the other for a board, what is it that should be done under the amendment. Nothing could be done. In this view, a more mischievous provision to nullify the beneficent provisions of the bill cannot be imagined. If the amendment is passed it will simply nullify the whole provisions of the bill. I trust that the mover of amendment will withdraw it.

The amendment was put and lost.

MR. JOSEPH VITHAYATHIL: Sir, I beg to move the following amendment:—

In clause 3, add the following Proviso also:—

"Provided also that, where either a Trade Union or an Employers' Association or Organisation concerned with the dispute applies for a reference to a court or for a reference to a Board, a court or a board, as the case may be, shall be appointed accordingly."

What is intended by this amendment is certainly not a case contemplated by the Law Member when he spoke on the previous motion. According to him if one party applies for the appointment of a board and the other party applies for a court, the Government will not be able to satisfy both the parties. But what is really contemplated by my amendment is not this. According to the proviso in the clause, as it stands, it is only in case both the parties, representing the majority of each party, apply either for a board or for a court, that the Government is bound to constitute one. The case where one party applies for a board and the other for a court, was not contemplated either by the previous amendment or by this amendment. What is contemplated

[Mr. Joseph Vithayathil.]

is a case where one party applies for a court or a board and the other does not do anything. If both parties apply, the question whether a board or a court should be appointed may be left to the discretion of the Government. There is, however, some difference between the amendment that was moved a little while ago and this one. If this proviso also is added the position will be this:— Firstly, the discretion of appointing court or a board vests with the Government whether any party applies for it or not. Secondly the Government is obliged to appoint either a court or a board when both the parties apply. Thirdly, when a trade union or an employers' association moves in the matter the Government is obliged to appoint a court or a board. It is to avoid frivolous petitions for the establishment of a court or a board that the amendment is worded like this. It is only when trade unions or employers' associations which are expected to represent the parties to a trade dispute apply that the establishment of a court or a board, as the case may be, becomes obligatory on the part of the Government. In such cases Government are obliged to constitute one of the things. If the appointment of boards or courts is left entirely to the discretion of the Government there is absolutely no necessity for a legislation of this nature. Even without legislation, the Government can offer to settle trade disputes. If the object of the legislation is to provide for a court or a board when both the parties apply my submission is that it is not at all necessary that a legislation of this nature should be enacted for that purpose. According to the proviso only trade unions or employers' associations, which can represent the interests of either party can apply for the establishment of a court or a board. Clause 19 of the Bill empowers Government to frame necessary rules with regard to the constitution of a board or court. If the Government find that the applications are frivolous ones rules can be framed for preventing such applications being put in. To compel the Government to constitute a board or a court only when both parties apply, is certainly nullifying the effect of the Regulation itself. So I move that this proviso also be added to the Section.

MR. M. SIVATANU PILLAI: Suppose at the instance of one party a board is appointed and subsequently another party wants a court, then does it mean that party should be prevented from applying for that?

MR. JOSEPH VITHAYATHIL: That objection only relates to the wording of the proviso. I am at the principle involved in the Clause. It is presumed that only one party applies either for a court or a board. To prevent the contingency suggested by the honourable member necessary amendments may be made in the wording of the proviso.

MR. G. MATTHEW: Sir, I support the amendment. I do not think there is any difficulty at all as has been pointed out by the Law Member. Mr. Subramonia Iyer was mentioning that if the privilege of putting in applications for a court or a board has been granted to

all parties who are connected in a particular trade dispute, the number of petitions for the appointment of boards or courts will be multiplied. In this particular case, this amendment makes provision only for cases where the applying party is a trade union or employers' association concerned in the dispute. It does not apply to cases where the individual workers make the application. So that difficulty is completely overcome by this amendment. On the other hand as the Law Member was raising an objection that the amendment which was commended for the acceptance of the House did not entirely carry out the provisions of the act in as much as when one party applied for a board and the other for a court, it will be difficult for the Government to make the appointment. That is not one quite in consonance with the provisions of the act. In this particular case that difficulty does not arise. It applies only to a case where one of the parties applies. That party may apply for a board or a court and then a court or a board has to be appointed as per the application. In fact such a provision should be in the act, since the other provision means that the Government may appoint boards or courts, as the case may be. That is left to the sweet will and discretion of Government. It is not incumbent upon them to make such appointments. Very often they may not be appointed at all. In case of such disputes, some parties alone may desire to have the appointment of a board or court as that party would be one which will gain by the appointment of the board or court, as the case may be. The other party will not be desirous of such an appointment. At the same time, it may be a winning case on the party and one where the grievances should be redressed. To meet such cases, this proviso will make ample provision. So, I support the amendment.

MR. KAYALAM PARAMESVARAN PILLAI: Sir, I oppose the amendment. What I said on the previous amendment applies to this also. It does not serve any purpose by trying to find out what is at the back of the mind of Mr. Joseph Vithayathil. We have only to see what the effect of the words employed by him mean. According to the amendment it comes to this. If a trade union applies for a court, it must be appointed; if it applies for a board then that too. Yes. But if an employer's trade union applies for just the contrary what would happen?

MR. E. P. VARGHESE: Could not that difficulty be overcome by an amendment, namely, "whichever the Government decides"?

MR. KAYALAM PARAMESVARAN PILLAI: That is a matter for speculation. I am concerned with the amendment noted.

MR. JOSEPH VITHAYATHIL: Necessary amendments may be brought in. In case one party applies for a board the matter may be left to the discretion of the Government as to whether it is a court or a board that has to be appointed. So this proviso may be added to this clause. As I submitted, the only principle for consideration is whether the appointing of a court or board though one party alone applies is justifiable.

MR. KAYALAM PARAMESVARAN PILLAI : I would only say that the amendment as it stands is ridiculous. I would request the mover to withdraw the amendment.

When there is a dispute, there must be some discretion for Government to appoint a court or board. Government have to be satisfied that it is a fit case to be decided by a tribunal. Government should not for one thing be called upon to spend unnecessarily. According to the proposal, who will pay the costs of a reference which is not worth while to be referred? Government must have some discretion, unless both parties make an application.

MR. JOSEPH VITHAYATHIL : I have no objection to the cost being incurred and recovered from the parties concerned.

MR. KAYALAM PARAMESVARAN PILLAI : But first of all it has to be settled whether a case is worth being referred.

MR. A. THANU PILLAI : According to the Proviso already agreed to, is it obligatory on the Government, to refer a dispute to a board or court in case it is worthwhile contesting?

MR. KAYALAM PARAMESVARAN PILLAI : Yes. If both parties agree that a dispute is worth settling, then the application for referring the case to a board or court may be considered worthwhile. Under the circumstances I trust Mr. Joseph will see his way to withdraw the amendment.

MR. JOSEPH VITHAYATHIL : I beg to withdraw the amendment. The amendment was, by leave of the House, withdrawn.

The question that clause 3 do form part of the Bill was put and carried.

The clause was added to the Bill.

Clause 4.

SRIMATI C. O. PONNAMMA : Sir, I beg to move that "In Clause 4, sub-clause (1), line 1, after the word 'and' insert the words 'two or more,' and delete the words occurring after the word 'fit' in line 2." The clause relating to the amendment is this.

"A court shall consist of an independent chairman and such other independent persons as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person."

Sir I think investigation and settlement of trade dispute is a very serious matter which ought not to be left to the whim and fancy of one particular man. The presence of one or more persons will improve matters.

MR. V. K. VELAYUDHAN : I second the amendment.

MR. KAYALAM PARAMESVARAN PILLAI : I oppose the amendment. I believe the purpose of the amendment is that in every case there should be a plurality of persons to constitute a board. I do not think that that is necessary. Very often a single individual may be the best person. But in some cases a plurality may be better. That is a

matter that has to be decided by the Government and I think that it is better that you leave it to the discretion of the Government. This is what is contained in the British Indian enactment as well as in the English Act. Therefore I oppose the amendment.

The amendment was put to vote and lost.

The question that clause 4 do form part of the Bill was put and carried.

Clause 4 was added to the bill.

Clause 5.

SRIMATI C. O. PONNAMMA : Sir, I beg to move that "In Clause 5, Sub-clause (1), line 2, between the words "it" and "and" insert the words "in public." The clause relating to the amendment is this :

"A Court shall, either in public or in private, at its discretion, inquire into the matters referred to it and report thereon to the authority by which the Court was appointed."

MR. P. K. KUNJU : I second it.

MR. KAYALAM PARAMESVARAN PILLAI : I oppose the amendment. I cannot quite follow it. It relates to line 2. However I may say that you must give a discretion to the court whether to enquire in private or public. If the enquiry is conducted in public perhaps the press also may add its quota of publicity. I oppose the amendment.

The amendment was put to vote and lost.

The question that clause 5 do form part of the Bill was put and carried.

The Clause was added to the Bill.

(At this stage, the President took the chair.)

Clause 6.

SRIMATI C. O. PONNAMMA : Sir, I move that "In Clause 6, Sub-clause (1), line 1, substitute the word "more" for "four" and in line 2, omit the words after fit." The Clause relating to the amendment is

"A Board shall consist of a chairman and two or four other members, as the appointing authority thinks fit or may, if such authority thinks fit, consist of one independent person."

I cannot understand the meaning of the word "four" there. So I beg to move that it may be substituted by the word "more".

MR. P. K. KUNJU : I second it.

MR. KAYALAM PARAMESVARAN PILLAI : I oppose the amendment. In regard to the supposed clerical omission, I find an identical provision in the British Indian Act. It is advisable to leave it to the discretion of the appointing authority to decide how many members shall constitute a Board.

The amendment was put to vote and lost.

The question that Clause 6 do form part of the Bill was put and carried.

The Clause was added to the Bill.

Clauses 7 to 14.

The question that Clauses 7 to 14 do form part of the Bill was put and carried.

The Clauses were added to the Bill.

Preamble.

SRIMATI C. O. PONNAMMA : Sir, I beg to move:—

In line 2 of the Preamble delete "and for certain other purposes hereinafter appearing". The Trade Disputes Bill must be wholly confined to investigation and settlement of trade dispute and for certain other purposes.....

PRESIDENT : The honourable member must realise that what is said is "where as it is expedient to make provision for the investigation and settlement of trade disputes, and for certain other purposes hereinafter appearing ; it is hereby enacted as follows:" It must be read distinctly. If the honourable member realises that, she will not I think press the amendment.

SRIMATI C. O. PONNAMMA : I do not press it.

The question that the Preamble do form part of the Bill was put and carried.

The Preamble was added to the Bill.

Title.

The question that the title do form part of the Bill was put and carried.

The title was added to the Bill.

THIRD READING OF THE TRAVANCORE TRADE DISPUTES BILL.

MR. KAYALAM PARAMESVARAN PILLAI : There is only a small amendment made during the second reading of the Bill and I think that we may now proceed to the third reading for which purpose I request the chair to waive the standing orders to permit me to proceed with the third reading of the Bill.

PRESIDENT : I waive the standing order.

MR. KAYALAM PARAMESVARAN PILLAI : I beg to move that the Bill as settled at the second reading be passed.

MR. KUMARA DAS (*Director of Industries*) : I second it.

The motion was carried and the Bill was passed.

THE TRAVANCORE FACTORIES BILL.

MR. KAYALAM PARAMESVARAN PILLAI : I rise to present the report of the Select Committee on the Travancore Factories Bill and beg to move that the Bill as reported be taken into consideration.

MR. C. KUMARA DAS : I second it.

The motion was carried.